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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 JEFFREY A. PATE,

11 Plaintiff,

No. CIV S-04-1201 FCD DAD P

12 vs.

13 SACRAMENTO COUNTY  
14 SHERIFFS DEPUTIES,

15 Defendants.

ORDER

16 \_\_\_\_\_/  
17 Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to  
18 42 U.S.C. § 1983. Plaintiff has paid the filing fee.<sup>1</sup>

19 On November 15, 2005, the court ordered plaintiff to file his proof of service  
20 reflecting that service had been completed on defendant Garcia, the sole defendant in this action,  
21 or to show cause why service has not been completed. On January 5, 2006, the court provided  
22 plaintiff with an additional fifteen days to file his proof of service. Alternatively, the court  
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24 <sup>1</sup> On November 24, 2004, plaintiff paid the \$150.00 filing fee. However, on August 24,  
25 2006, \$350.00 was submitted to the court as an additional filing fee. Plaintiff is advised that the  
26 filing fee for this case is \$150.00 and he may request a refund from the Financial Office of this  
court. Plaintiff should provide the case file number, the name of the person who should receive  
the refund and the mailing address.

1 informed plaintiff that if he submitted an application requesting leave to proceed in forma  
2 pauperis and the application was granted, the court would order the U.S. Marshal to serve  
3 process on defendant Garcia. Plaintiff has submitted neither the proof of service not a proper  
4 application to proceed in forma pauperis.<sup>2</sup> Therefore, the court will again order plaintiff to file  
5 his proof of service reflecting that service on defendant Garcia has been completed. If service  
6 has not been completed, this action will be dismissed pursuant to Rule 4(m) of the Federal Rules  
7 of Civil Procedure.

8 Accordingly, IT IS HEREBY ORDERED that within twenty days from the service  
9 of this order, plaintiff shall file his proof of service reflecting that defendant Garcia has been  
10 served with the summons and second amended complaint. Failure to comply with this order will  
11 result in the dismissal of this action pursuant to Rule 4(m) of the Federal Rules of Civil  
12 Procedure.

13 DATED: September 8, 2006.

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17 DALE A. DROZD  
18 UNITED STATES MAGISTRATE JUDGE  
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16 DAD:4  
17 patel1201.pos2

25 <sup>2</sup> On July 5, 2006, plaintiff filed a letter to the court indicating that his mother would be  
26 submitted the \$350.00 filing fee. Attached to the letter was a trust account statement and the  
second page of the in forma pauperis application.